

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST
FOR REVIEW BY:

MARIA C. BAEZA

Petitioner.

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)	CHARGE NO.: 2009CN3076
)	HUD NO.: N/A
)	EEOC NO.: N/A
)	ALS NO.: 09-0558
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ORDER

This matter coming before the Commission by a panel of two, Commissioners Munir Muhammad and Nabi Fakroddin presiding, upon Maria C. Baeza's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2009CN3076; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

FAILURE TO PROCEED

In support of which determination the Commission states the following findings of fact and reasons:

1. On December 30, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged that her employer Olcott Plastics ("Employer") discriminated against her because of her sex, female, her national origin, Mexico, and her age, 55, in violation of Section 2-102(A) of the Illinois Human Rights Act (the "Act"). On September 25, 2009, the Respondent dismissed the Petitioner's charge for Failure to Proceed. On October 5, 2009, the Petitioner timely filed her Request.
2. After the Petitioner had filed her charge, the Respondent scheduled a Fact Finding Conference ("Conference") for July 30, 2009. The Respondent sent a Notice of the Conference to the Petitioner on July 17, 2009. The Notice informed the Petitioner of the date, time, and location of the Conference, which was Chicago, Illinois. The Notice also informed the Petitioner that her failure to attend the Conference may be grounds for dismissing her charge.

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

3. On July 30, 2009, the Conference was held. The Employer attended the Conference. The Petitioner did not attend the Conference. The Petitioner did not contact the Respondent to explain her failure to attend the Conference.
4. On July 30, 2009, the Respondent mailed a letter to the Petitioner requesting an explanation, with supporting documentation, for her failure to attend the Conference.
5. On August 21, 2009, the Petitioner contacted the Respondent. The Petitioner stated she did not attend the Conference because she could not find anyone to drive her to Chicago, Illinois from her home in Elgin, Illinois.
6. On September 25, 2009, the Respondent determined that the Petitioner had not shown good cause for her failure to attend the Conference. Pursuant to Section 7A-102(C)(4) of the Act and 56 Ill. Admin. Code, Ch. II, §2520.560, the Respondent dismissed the Petitioner's charge for failure to proceed.
7. In her Request the Petitioner does not provide any argument nor any additional information regarding her failure to attend the Conference.
8. In its response, the Respondent asks the Commission to sustain the dismissal of the Petitioner's charge. The Respondent states the Petitioner failed to provide good cause for her failure to attend the Conference as required by 56 Ill. Admin. Code, Ch. II, §2520.440(d)(3).

CONCLUSION

The Commission's review of the Respondent's investigation file leads it to conclude that the Respondent properly dismissed the Petitioner's charge for Failure to Proceed.

56 Ill. Admin. Code, Ch. II, §2520.440(d)(3)(A)(i) – (iv) provides examples of what types of circumstances may constitute "good cause" for failing to attend a fact-finding conference, including, but not limited to: **(1)** death or sudden serious illness of either the party or the party's immediate family member; **(2)** that the party provide evidence, such as an affidavit, that she acted with due diligence to attend the Conference, and did not deliberately, contumaciously or unwarrantedly disregard the fact-finding conference, or **(3)** that the party provide evidence, such as an affidavit, that circumstances beyond her control prevented her from attending the Conference. Pursuant to § 2520.440(d)(5), the Respondent has discretion to determine whether or not good cause exists.

The Commission finds no evidence the Respondent abused its discretion when it determined the Petitioner had failed to show good cause for her failure to attend the Conference.

The Petitioner had received notice of the date and location of the Conference well in advance of the Conference. As such, she had adequate time to make arrangements to travel into Chicago for the Conference. The Petitioner's lack of a vehicle does not constitute good cause. The Petitioner provides no evidence that she suffered physical limitations that limited her to using an automobile to travel to Chicago. Public transportation was an option, but the Petitioner provides no explanation for why she failed to use this option to attend the Conference.² Finally, the Petitioner has offered no evidence that any extenuating circumstances beyond her control caused the Petitioner to miss the Conference.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of her charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Olcott Plastics, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 14th day of April 2010.

Commissioner Munir Muhammad

Commissioner Nabi Fakroddin

² According to the website for the Metra Rail Line, <http://metrarail.com>, the Milwaukee District/West Line (MD) would have brought the Petitioner from Elgin, Illinois to Chicago, Illinois.